

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

INTEGON GENERAL INSURANCE CORP.
5630 University Parkway, PO Box 3199
Winston-Salem NC 27102-3199,

Plaintiff

V.

LAVERNE N. BOYD, Administratrix of the
Estate of Roberto Russell, aka Roberto Russell
Deceased, *et al.*,

Defendants

Case No.:1:20 CV 2811

JUDGE SOLOMON OLIVER

MEMORANDUM OPINION AND ORDER

Integon General Insurance Corporation (“Integon”) filed this action on December 21, 2020, because it had issued an automobile insurance policy to a Tennessee resident, Henrika Romero. Romero permitted Stephen A. Burgan to borrow her vehicle and on February 14, 2020, Burgan drove the vehicle at a high rate of speed in the wrong direction on East 93rd Street in Cleveland, Ohio, colliding head on with a vehicle driven in the proper direction by Deron Grant. The collision resulted in the deaths of Stephen M. Burgan (son of Stephen A. Burgan), Roberto Russell, and Deron Grant. It also resulted in injuries to three other individuals traveling in other vehicles on the same roadway. All three decedents’ estates and all three injured individuals have made claims for compensation under the liability coverage Integon issued to Henrika Romero, which covered permissive user/tortfeasor/driver Stephen A. Burgan at the time of the accident.

Integon, through its undersigned counsel, made efforts to resolve claims with all six (6) claimants on a mutually agreeable basis prior to filing suit. However, counsel for Laverne Boyd, as

administratrix of the Estate of Roberto Russell, maintained that Integon was responsible for coverage exposure amounting to three times (3X) the actual policy limits.

Based upon this impasse, Integon filed this declaratory judgment action against all claimants against Steven A. Burgan for injuries and deaths arising out of the automobile collisions caused by Burgan on February 14, 2020, in Cleveland, Ohio.

This action was filed on December 21, 2020. On March 2, 2021, Cuyahoga County Child Support Enforcement Agency filed an Answer (ECF No. 8) asserting a child support lien regarding one of the deceased claimants, Roberto Russell. On March 5, 2021, an Answer (ECF No. 9) was filed by Nicole Longino, Administratrix and counsel for the Estate of Stephen M. Burgan. On March 8, 2021, a Motion to Dismiss this case on jurisdictional grounds (ECF No. 11) was filed by counsel for Defendant Laverne Boyd, Administratrix of the Estate of Roberto Russell. The matter was briefed and argued. Prior to any ruling on the Motion to Dismiss, Plaintiff Integon filed Motions for Default Judgment against several defendants (ECF Nos. 17–20). Thereafter, on July 12 and 30, 2021, Default Judgments were rendered in favor of Integon against Defendants Shawnay Hardaway, Stephen A. Burgan, Marquette Harper as Administratrix of the Estate of Deron Grant, and Henrika Romero (ECF Nos. 26–29). On March 17, 2022, this Court entered an Order (ECF No. 34) denying the Motion to Dismiss.

Thereafter, on September 21, 2022, Plaintiff Integon General Insurance Company filed a Motion for Summary Judgment (ECF No. 39). To date, none of the Defendants have opposed this dispositive motion. (*See, e.g.*, Submission in Resp. to Mot. Summ. J., ECF No. 40.) Upon review, the court finds that Plaintiff Integon's Motion for Summary Judgment is well-taken, and is hereby granted. Specifically, the court finds as follows:

1. The Integon policy at issue provides a Bodily Injury limit of liability shown on the Declarations page of \$25,000 Each Person which “is the most [Integon] will be required to pay for all damages, including derivative claims, arising out of and due to bodily injury sustained by any one person in any one accident and that for the purposes of such limit of liability, all damages, including derivative claims, shall constitute a single claim”;
2. The Integon policy at issue provides a Bodily Injury limit of liability shown on the Declarations Page of \$50,000 Each Accident which “is the most [Integon] will pay for all damages, including derivative claims, arising out of and due to bodily injury resulting from any one accident” and that “[f]or the purpose of such limit of liability, all damages, including derivative claims, constitute a single claim”; and
3. Stephen A. Burgan’s allegedly negligent operation of Henrika Romero’s KIA Forte on the evening of February 14, 2020 was but one continuous accident that caused all of the bodily injuries that flowed from it and, thus, the bodily injuries suffered by Roberto Russell, Deron Grant, and Stephen M. Burgan, and their wrongful deaths, and the bodily injuries suffered by Michael Brooks, Shawnay Hardaway, and Thomas Lee, are all subject to the \$25,000 “Each Person” limit of liability and the \$50,000 “Each Accident” limit of liability of Integon’s Personal Automobile Policy; and
4. There was only one “accident” on February 14, 2020, caused by Stephen A. Burgan’s allegedly negligent operation of Henrika Romero’s KIA Forte; Integon’s limit of liability for each person is \$25,000; and Integon’s limit of liability for all claims by all persons and/or their representatives arising out of this February 14, 2020, accident is \$50,000.

The Court has been informed that there was a settlement of the claim of Michael Brooks for \$1.00. The remaining limits of coverage available under the Integon Policy are \$49,999.00. Of this amount, \$24,999.50 will be paid to settle the claims of Nicole Longino as Administratrix of the Estate of Stephen M. Burgan, and \$24,999.50 will be paid to settle the claims of Laverne Boyd as Administratrix of the Estate of Roberto Russell. The Court finds there is no opposition to this ruling nor the distribution of the \$50,000.00 policy limits available under the Integon Insurance Policy. The parties acknowledge that the funds to be distributed are classified as wrongful death proceeds and that, as acknowledged by counsel for Defendant Cuyahoga County Office of Child Support Services, Cuyahoga County does not hold a child support lien applicable to such proceeds. The court finds that Integon owes no further payments under its liability insurance policy to any other claimants under that policy. This ruling is binding upon all parties named in the Complaint in this action including Laverne Boyd, Administratrix of the Estate of Roberto Russell; Marquette Harper, Adminstratrix of the Estate of Deron Grant; Nicole Longino, Administratrix of the Estate of Stephen M. Burgan; Michael Brooks; Shawnay Hardaway; Stephan A. Burgan; Henrika Romero; and the Cuyahoga County Office of Child Support Services. Defendant Thomas Lee was never served with a summons or complaint, and therefore the court hereby dismisses Plaintiff's claim against Lee without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

Plaintiff Integon shall pay the court costs of this action.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 17, 2023

